

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No. CV 08-03654

Date: January 12, 2009

Title: Marchelo Design v. Best Master, etc. et al.

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Lori Anderson
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: ATTORNEYS PRESENT FOR DEFENDANTS:

NONE PRESENT

NONE PRESENT

PROCEEDING (IN CHAMBERS): ORDER TO SHOW CAUSE

Before the Court is Plaintiff's proposed amended complaint, which was filed on December 15, 2008. At a status conference on December 15, 2008, Plaintiff sought to file a second amended complaint but Defendants would not stipulate to such filing. The Second Amended Complaint was ordered to be filed pending the Court's decision as to whether or not to accept it.

The grant or denial of an opportunity to amend is within the discretion of the district court. *Foman v. Davis*, 371 U.S. 178, 182 (1962). "In the absence of any apparent or declared reason – such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc. – the leave sought should, as the rules require, be 'freely given.'" *Id.*

The Court has received the Second Amended Complaint and hereby issues an ORDER TO SHOW CAUSE WHY Plaintiff's Second Amended Complaint should not be accepted by this Court.

The Clerk shall serve this minute order on all parties to the action.

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Initials of Deputy Clerk lma
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